IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION Nos.15189 & 21657 of 2002

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W.P.No.15189 of 2002

Between:

S.Simhachalam, S/o.Krishnamurthy, aged 42 years, F.P.Shop Dealer, Chidimi Depot-II, Veerghattam Mandal, Srikakulam District.

..... PETITIONER

AND

1. The District Collector (C.S), Srikakulam, District Srikakulam.

2. The Joint Collector (C.S), Srikakulam, Srikakulam District.

3. The Revenue Divisional Officer, Palakonda, Srikakulam District.

4. The Mandal Revenue Officer, Veerghattam Mandal, Srikakulam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or orders, direction more particularly one in the nature of writ of CERTIORARI calling for the records relating to the orders of the 1st respondent passed in D.Dis. No.237/2002 dated 24.6.2002 and confirming the order of the 2nd respondent in D.Dis.No.101/2002 dated 31.3.2002 and the order of the 3rd

respondent in D.Dis.No.49/2002B dt.20.2.2001 and quash the same and consequently direct the respondents to continue the petitioner as Fair Price Shop Dealer of Chidimi-II Depot in Veeraghattam Mandal, Srikakulam District.

Counsel for the Petitioner:MR.A.RAMA RAO

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE & GP FOR CIVIL SUPPLIES

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W.P.No.21657 of 2002

Between:

S.Simhachalam, S/o Krishnamurthy, 42 years, G.P.Shop Dealer,
Chidimi-II Depot, Veeraghattam Mandal, Srikakulam District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Palkonda, Srikakulam District.
2 The Joint Collector,(C.S), Srikakulam District, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or orders, or direction more particularly one in the nature of writ of Mandamus declaring the proceedings Rc.No.339/2001 dt. -10-02 of the 1st respondent is illegal, arbitrary, unjustified, unsustainable unconstitution contrary to law and set aside the same and consequently direct the respondents not to make any appointment of F.P.Shop Dealer of Chidimi-II Depot, Veeraghattam Mandal, Srikakulam District on permanent basis.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR CIVIL SUPPLIES

The Court made the following:

COMMON ORDER:

The petitioner in both these cases was a fair price shop dealer of Chidimi-II Depot. He filed the first writ petition, W.P.No.15189 of 2002, assailing the order of cancellation of his authorization, which was confirmed by the appellate authority as well as revisional authority. He also filed the second writ petition, W.P.No.21657 of 2002, challenging the notification issued by the Revenue Divisional Officer, Palakonda (RDO) inviting applications for appointment of new fair price shop dealer for Chidimi-II Depot. Therefore both these matters are heard finally and disposed of by this common order.

A group of card holders made a complaint alleging that the petitioner who is a fair price shop dealer is simultaneously working as a contractor and that he is selling essential commodities at higher prices than prescribed by the Government. Initially, the RDO suspended authorization on 13.8.1999 and called for report from the Mandal Revenue Officer, Vaaraghattam (MRO). The MRO submitted a report on 21.9.1999 requesting the RDO to take necessary action against the petitioner by imposing fine. A show cause notice was issued to the petitioner and consider the explanation submitted by him, the RDO cancelled the authorization on 18.12.1999 holding that the petitioner was found to have been selling essential commodities at higher prices and that he was working as a contractor. The petitioner's appeal under Clause 17 of the A.P. Schedule Commodities (Regulation of Distribution by Card System) Order 1973 (hereafter called 'the Control Order') was dismissed. Not satisfied with the same, a revision petition under Clause 18 of the Control Order to

the District Collector, Srikakulam, which was also dismissed by impugned order dated 24.6.2002. Aggrieved by which the W.P. No.15189 of 2002 is filed.

As mentioned earlier, the second writ petition is filed questioning the notification issued by the RDO dated 12.4.2002 inviting applications for appointment of a new fair price shop dealer.

Learned Counsel for the petitioner submits that a group of people, who are enemically disposed against the petitioner filed the complaint concocting charges against him and that the petitioner is innocent. According to the learned Counsel, the petitioner had never worked as a contractor for Civil Supplies department and he was only worked as a contractor for Panchayat Raj department, and that he did not sell essential commodities over and above the rates prescribed by the Government. These contentions are denied by the learned Assistant Government Pleader for Civil Supplies department.

This Court has perused the report of the MRO, Veeraghattam dated 21.9.1999 and the orders passed by the lower authority, appellate authority as well as revisional authority. In the report submitted by the MRO to the RDO, it is stated that when the petitioner was asked to give explanation about the two charges made against him, he admitted that he accepted contracts once or twice as he was not able to get sufficient commission by running fair price shop. It is also stated that as the petitioner was not performing his duties as a fair price shop dealer, the card holders were facing inconvenience. It appears that the petitioner also informed the MRO that he will seek cancellation of registration as Class-V contractor and concentrate as fair price shop dealer. When a show cause notice was issued by the RDO, the petitioner did not seriously dispute the allegation that he worked as a contractor while performing the duties as fair price shop dealer. Therefore the RDO came to the conclusion that the petitioner cannot effectively function as a fair price shop dealer and cancelled the authorization. The appellate authority as well as revisional authority, after verifying the records, recorded a finding to the effect that the petitioner did work as a contractor and therefore, he incurs disqualification of being continued as fair price shop dealer. The submission of the learned Counsel that the petitioner never worked as a contractor for Civil Supplies department and only accepted the contracts given by Panchayat Raj department does not make any difference. If the petitioner admits that he accepted works from Panchayat Raj department, the allegation that he did not function as a fair price shop dealer properly stands proved. That itself would be sufficient to justify the cancellation of authorization. In any view of the matter, the subject raised is purely question of fact and this Court does not find any perversity in the findings recorded by the revisional authority while confirming the orders passed by the lower authority as well as appellate authority. The writ petition is devoid of merits.

The second writ petition is filed challenging the consequential notification for appointment of fair price shop dealer. The petitioner, whose authorization is cancelled cannot be said to have any *locus standi* , if arrangements are made by the Revenue authorities to appoint a regular dealer. If ultimately the dealer, whose authorization is cancelled, succeeds before the appellate authority/revisional

authority, he can always seek restoration of his dealership. Therefore the second writ petition is also devoid of merits.

Accordingly, both the writ petitions are dismissed.

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June 15, 2005. (**V.V.S.RAO, J**)

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To

1. The District Collector (C.S), Srikakulam, District Srikakulam.

2. The Joint Collector (C.S), Srikakulam, Srikakulam District.

3. The Revenue Divisional Officer, Palakonda, Srikakulam District.

4. The Mandal Revenue Officer, Veerghattam Mandal, Srikakulam District

5. Two CCs to the Government Pleader for Home, High Court Buildings,

Hyderabad. (OUT)

6. Two CCs to the Government Pleader for Civil Supplies, High Court

Buildings, Hyderabad. (OUT)

7. Two C.D. Copies.